

Working Children

Bangalore



PRESENT

THE
CHILD LABOUR
[Employment, Regulation, Training and
Development] Bill, 1995

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THE CONCERNED FOR WORKING CHILDREN

We are an informal group of activists working with unions, voluntary organizations and institutions who during our involvement in our work have witnessed the stark reality of the working child.

Some of us who, are unionists and working with the informal unorganised sectors of labour, constantly came up against the vicious cycle that the existing bans created for these children.

Most children who were forced to work because of social and economic pressures were under age and could not be officially organized into a trade union. Representation to the Labour Department resulted in the imposition of the ban and loss of work, a severe blow to the working child, as if he did not work and he did not eat. Meanwhile as they were employed illegally unscrupulous employers took maximum advantage of this situation by paying them low wages refusing compensation in the case of industrial accidents and putting them to work on jobs adults normally refuse to do.

It was then decided to undertake some research into this area and an informal committee - The Concerned For Working Children - was formed.

Most of us who were involved with the research began to feel more and more the need for a new and more realistic legislation on child labour that would first of all recognize the child as a worker, protect him and give him the benefits of basic education, vocational training and career development.

It took us nearly three years of concentrated work to evolve this Draft Bill. Very often, work that had been done had to be totally scrapped in the light of some new evidence. We were also constricted by lack of funds and more important lack of data and statistics, the little available, being either out of date or incomplete. Still we have tried to make our Draft Bill as comprehensive as possible looking at the problem from all angles - especially from the point of view of the working child.

In presenting this Bill we decided to use the children themselves as far as possible and some of us who have been working with children in the area of Street Theatre, Puppetry and other forms of media have helped some children to put a street play together.

The members of this Committee come from different disciplines and ideological trends. Normally, this would not have been possible, but this subject - the working child - has broken all barriers and submerged all differences as our only concern is that the little labouring child's dream is made a reality.

We appeal to each one of you to join us in this effort.

Mrs. Leela Damodara Menon,
Ex. Member of Parliament.

Dr. B. R. Patil,
Asst. Professor, IIM-B.

Sri B. Sreepathy Rao,
Trade Unionist, Bangalore.

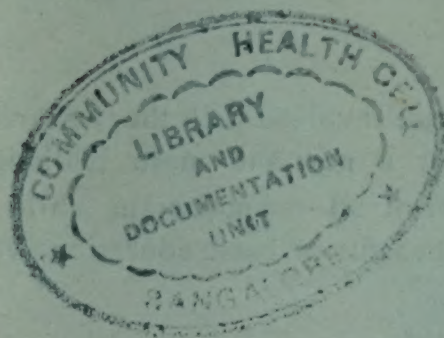
Mrs. Amukta Mahapatra,
Educationist

Sri T. Pattabhirama Reddy,
Chairman, PUCL-Bangalore.

Ms. Nandana Reddy,
Trade Unionist, Bangalore.

Sri Harikrishna Holla,
Advocate, Bangalore.

Mr. Gladius D. Kulothungan,
Director, MESCA.



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Sri S. Srivatsa,

Sri B. Ramesh,

Ms. K. M. Ramamani,

Mr. D. R. Ramadasaiah

BANGALORE LABOUR UNION, Bangalore.

The INDIAN INSTITUTE OF MANAGEMENT, Bangalore.

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PREPARE, Madras.

INTRODUCTION

NANDANA REDDY

India is now poised to enter into the 21st Century—a new phase of Development, Modernization and Computerisation. To succeed, India will need a very different kind of workforce—an army of highly skilled and professionally trained personnel.

The working children of today are going to form a major part of tomorrow's adult workforce. But these children do not have the opportunity or the option to mould themselves to be productive citizens in the India of tomorrow, as they will be workers possessing a very low level of skills. This leads to a low level of employability which again is a factor that prevents the full utilisation of manpower in industrialization of the country.

Kantha started working when he was 5. He comes from a village 150 kilometers away from Bangalore. He works in a hotel in the city of Bangalore. His father took a loan from the hotel owner for his daughter's marriage. In return he left Kantha to work in the hotel. Now Kantha is 9 years old.

Kantha grinds, cleans and washes the utensils. He has no time for recreation. He has never been to school. His dream of becoming a motor mechanic will never come true, because he will not have the opportunity to acquire the necessary skills.

There are many working children like Kantha who in the eyes of the law do not exist. As a result, they do not get the benefits adult workers enjoy. They have no regular working hours, minimum wages, health insurance, compensation for accidents occurring during work, or any of the other amenities provided to adult workers.

Ravi was working as a helper in an engineering industry in Peenya Industrial Estate—the largest Industrial Estate in South East Asia. He was earning Rs. 65/- a month. He was only 12 years old when he was made to operate a grinding machine as the trained operator was on leave. As Ravi did not know exactly how the machine worked, his hand got stuck in a groove and four fingers got severed just below the thumb.

Ravi was not covered under the ESI Scheme. Hence, his employer sent him to a private hospital in the city. Legally Ravi could not claim compensation and it was only through a threat of a criminal case against the employer that Ravi got an "under the table" settlement of Rs. 2000/-. But Ravi lost his job. He is now 20 years old and not fit to do any skilled

work. He is a liability on his family and as he does not have the benefit of any education he cannot even hope to do anything else.

Like Ravi a large number of children who work in match industries, fireworks, powerloom sectors, forging and machine workshops, chemical, asbestos and cement industries, stone quarries and mines, work under dangerous conditions that often cause respiratory problems, lung diseases, skin diseases, loss of eye sight loss of limbs and sometimes even life.

A child worker is not officially recognised as a legitimate part of the work force and therefore is denied all statutory protection that is available to adult workers. The working child besides being exploited physically and economically is also exploited mentally and sexually.

Shivanna is brought to work each morning and chained there. He works 12 hours a day and 7 days a week. The scar that this experience will leave on this child is permanent. Studies have revealed that working children not only become premature adults but their physical and mental growth is stunted to an under-development in skills and this results in a stultification of the growth of the personality of the child.

According to official statistics based on a sample survey in 1983, there were 17.36 million working children below the age of 15. But official statistics also state that 2/5th of the total Indian child population live in conditions adverse to survival. From this we can assume that a true reflection of the number of working children in India today would be closer to 100 million.

Over 90 per cent of them are employed in agriculture and allied occupations in villages and semi-urban areas. Less than 10 per cent are engaged in different occupations in towns and cities. The major sectors employing children in urban society are domestic and household services, hotels and other eating places, trade and commerce, i.e., petty shops, vendors, and hawkers; automobile repair and fuelling stations, small scale industries, workshops and other repair shops; the traditional occupations like carpentry, tailoring, hair cutting and dressing, dhobis, beedi and matches, agarabatti manufacture, garment manufacture, shoe shining, cooli work, fore works, carpet weaving, handloom and powerloom sector, packing and labelling, brick kilns, construction, rag picking, and so on.

Thus, there is an absolute truth in the statement that 'there is no sector where a child is not employed'

The basic reason for an increasingly large number of working children in India is the extreme and widespread poverty of the Indian masses.

Chronic poverty is the strongest factor responsible for the prevalence and perpetuation of child labour. Nearly half of India's population subsists below the poverty line. In the country side the distribution of land is most inequitable. The lower 50 per cent of the households own only 4 per cent of the land. As many as 27.2 per cent of the rural households are agricultural tenants and 30.4 per cent agricultural labourers. Nearly 1/3rd of the metropolitan population lives in slums and improvised tenements. In these families the child, since very appearance in this world is endowed with an economic mission. These families cannot sacrifice the smaller gains of the present for the larger gains of the future as they do not have any surplus to sustain them. The income accruing from child labour may be a pittance but it plays a crucial role in saving the family from a shipwreck. Economic compulsions weigh so heavily on the conscience of poor parents that they do not mind colluding with the child's employer in violating the law and putting child under risks of inhuman exploitation. Poverty and child labour thus always beget each other and tend to reinforce themselves in families and communities.

It is now a well recognised fact that a high incidence of child labour is essentially a problem of development, for while in the developed countries the percentage of working children to the total child population is rather negligible, in developing countries like India, the families with no or meagre income are forced to send their children to the labour market as soon as they are old enough to get out of their houses. While for a large number of families child labour is an economic compulsion, the employers find in children the economic advantage of a cheap, productive, obedient and efficient labour force.

In total disregard of existing depressed socio-economic conditions all the legislations that India has enacted since 1881 have only concerned themselves with imposing a total ban on child labour in an increasing number of occupations.

Resultantly, the enforcement of these legislations has been totally ineffectual and the number of working children has been constantly increasing without any kind of protection.

India – a founder-member of the I. L. O – was a signatory to the first convention on the prohibition of child employment. This was in 1919. Since then it has enacted a large number of legislations to ratify the ILO conventions to prohibit the employment of children below 15 in different sectors. These legislations include :-

1. Children (Pledging of Labour) Act, 1933
2. Employment of Children Act, 1938.
3. Employment of Children (Railways) Rules, 1955.
4. Employment of Children (Major Ports) Rules, 1950
5. Shops and Commercial Establishments Act

6. Apprentices Act, 1961.
7. The Factories Act, 1948.
8. The Plantation Labour Act, 1951.
9. The Mines Act, 1952.
10. The Trade Unions Act, 1926.
11. The Workmen's Compensation Act, 1923.
12. The Minimum Wages Act, 1948.
13. The Merchant Shipping Act, 1958.
14. The Motor Transport Workers' Act, 1961.
15. The Atomic Energy Act, 1962.

All these legislations, however, concern themselves with specific sectors and not one of them is comprehensive in covering all occupations. Thus no general law regulating child labour is to be found on the Indian statute book. This is because historically legislation was passed not with a focus on the employment of children or for that matter persons falling under any other age group or any particular general category but with reference to the need to regulate employment in a particular industry as and when such need arose.

But subsequent to adopting a Constitution for a free and Democratic Republic in 1950 we should have had reviewed these legal provisions in light of Articles 24 and 39 of the Constitution, and the prevailing socio-economic conditions in the country.

Articles 24 and 39 of the Indian Constitution, in fact, provide for banning of employment of children below the age of 14 in hazardous employments on the one the one hand and on the other to ensure that children get every opportunity for developing in a healthy mannner in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

The desirable national objective, as expressed by these two Articles, can be interpreted as the regulation, Protection and welfare of child labour, instead of seeking to impose a complete ban on child employment.

Briefly the existing attitude of parents, employers and officials in respect of child labour in India can still be summarised as on of continuing drift.

This is further revealed in that the number of prosecutions for violations of Acts relating to children are very few and in the few cases which are taken up for prosecution the accused are let off with very petty fince. Government Inspectors, from the child labour cell, when interviewed stated their reluctance to initiate prosecution proceedings as it would result in child losing his job.

These are not problems that India can hope to solve in the ear future and therefore, the presence of child labour is an fact that we will have to accept, at least for now.

The Central Government has begun to reassess this question. The annual report of the Ministry of Labour for the Government of India for 1983-84 states that the Government has accepted child labour as a 'harsh reality' and feels that "it would be neither feasible nor opportune to prevent children from working in the present stage of economic development." The report calls for an improvement in working conditions and facilities for education, extra nutrition and health care for children.

Child labour of late has evoked deep concern among all who link the future of the country to the present of the child. However, we must make a distinction between "child employment" and "exploitation of child labour." Both are a problem though of different orders. It can now be asserted on scientific grounds that work as a direct fulfillment of a child's natural abilities and creative potentialities is always conducive to his healthy growth. But work when taken up as a means of survival becomes enslaving in character and impact. The basic attributes of work on the other hand are purpose, plan and freedom. When the business of wage earning or of participation in self or family support conflicts directly or indirectly with the business of growth and education, the result is child labour.

As all existing legislations are unrealistic and ineffectual in either eradicating child labour or protecting the working child, we need a new comprehensive legislation that will concern itself only with child labour.

This Bill, therefore, seeks to provide for the following :

- 1) The prohibition of child labour in hazardous occupations. The definition of hazardous being any job which causes physical or mental harm to the well-being of the child worker.
- 2) To protect the working child while he works in safe occupations by prescribing working hours, minimum wages, security, safety and compensation.
- 3) To provide for the welfare of the child worker through a scheme of basic education, vocational training, career development, recreation and health care and to provide for all other matters connected with child labour.
- 4) A Board called the Child Labour Board - provided for under this Bill will be charged with the responsibility of implementing the Scheme and provisions under the Act.
- 5) The Scheme will be funded by a fund created through the collection of a cess from all the employers based on the size of their establishment.
- 6) This Bill also provides for the unionization of child workers under this Act, and recognition of the same by the employers. But no such union will be affiliated to any trade union organization or political party.

- 7) This Act will over ride all other legislation on child labour notwithstanding the legal provisions made thereunder.

We predict that the enactment of this Bill can be much more effective in eliminating child labour in the long run than a ban on child employment.

It will be a disincentive for the employer to employ children if there is only a marginal difference between the wages, working hours, and other liabilities such as medical facilities, uniforms, working conditions, the provision of subsidized meals, etc, between that of a child labour and an adult worker.

This may result in the replacing of child worker with adult worker which will increase the family income and standard of living creating a situation where the child does not need to work. This process may be faster or slower. Either way the child does not stand to lose as even if the child is employed his contribution to the family income will increase and he will also learn a trade improving his career prospects for the future.

We realise that the enactment of such a legislation is not enough. More important would be the implementation of the legislation.

The onus for implementation of this Bill will not be solely on the Government agencies, but will be spread over parents of working children, employers, trade unionists, and social workers. Under this Bill :-

- 1) The working child will be granted the legal status of a worker, and therefore, will be eligible for all benefits adult workers enjoy.
- 2) Employers are unlikely to evade the statutory provisions of the Bill as it would concretely mean only extending the benefits that adult workers already enjoy.
- 3) Parents would rather see that their children employed in safe occupations where they are protected as this would be to their advantage.
- 4) The presence of this protective legislation would give unionists, social workers and parents of working children legal framework within which to work.

It must also be remembered that this draft Bill is born out of a strong need felt by organizations and unions working with working children to protect and help the working child.

We appeal to all of you Members of Parliament, Members of the Legislative Assembly, Government officials, Unionists, Social Workers and members of the Press, to help in creating a conducive atmosphere to enable the enactment of such a legislation.

AN ABSTRACT OF

CHILD LABOUR (EMPLOYMENT REGULATION, EDUCATION, TRAINING AND DEVELOPMENT) BILL, 1985

The Child Labour Bill, 1985 seeks to suggest a solution to the problem of child labour in India within the framework of the Indian Constitution and the national objectives of social and economic development. First and foremost, the Bill seeks to prohibit the employment of children below 15 in all hazardous occupations as stipulated by Article 24 of the Constitution. The Bill enjoins upon the Central Government the task of prohibiting the employment of children below 15 in hazardous occupations and employments. A suggestive list of hazardous employments and occupations is provided in the Schedule to the Bill. There is also a provision in the Bill that empowers the State Governments to add to the Schedule any other employments and occupations on the advice of the Child Labour Boards which in turn are required to form an opinion to advise the State Governments only on the basis of the findings of a panel of experts.

It is only the subsequent sections in the Bill that seek to regulate the employment and working conditions of child workers in non-hazardous occupations and employments and to provide for their education, vocational training, career development, nutrition and health care, recreations and welfare, etc., while recognising the child as a worker and conferring on him a right to unionize to improve his conditions of work and living. One important objective of this Bill is to make the employment of children less and less attractive for the employers. Hence, a number of disincentives are built into this Bill, which, we hope, would dissuade the employers from preferring child workers to adult workers and reduce the incidence of child labour in the long run.

This Draft Bill is in eight chapters. The first chapter deals with the preliminaries such as the short title, the extent and application of the Bill, and definitions of a few key terms used in the Bill. The Bill defines 'child labour' as a person who has not completed his/her fifteenth year of age and is working with or without wages/income on a part-time or full-time basis. Thus it is very comprehensive in its scope to include children even as young as 4 or 5 years old. The benefits of this Bill could be availed by a large number of working children.

In the Second Chapter, the authorities under the Bill are listed. The authorities include, firstly, the National Child Labour Advisory Board, to be constituted by the Central Government with the Union Labour Minister as the ex-officio chairman and 48 other nominated and ex-officio members. This is a policy making

and evaluating body; it is also supposed to render advice and give guidance to the Child Labour Boards at the states level. The Child Labour Board at the state level is an autonomous body to be constituted by the State Government with the State's Labour Minister as the ex-officio chairperson and 14 other nominated and ex-officio members. One-third of the members of both these boards are to be women.

Thirdly, the State Governments are required to appoint the Directors for the Child Labour Boards. The Director, Child Labour Board is the chief executive responsible for the enforcement of the Act and the Scheme under the Act.

The State Governments are also required under this Bill to constitute the Child Labour Tribunals for each division (revenue) within the State to deal with the legal problems arising out of the enforcement of the Act, for granting interem and final relief to the Child workers, and for prosecuting the employers contravening the provisions of the Act. The Tribunals are to consist of only one person acting as the presiding officer with the qualifications of a district magistrate. The appeals against the awards of the Tribunal lie only with the High Court.

The Bill empowers the Child Labour Boards to appoint other authorities/officers for carrying out various activities and programmes chalked out to give effect to the Scheme under the Act. These officers include the Deputy and assistant Directors, the District Child Labour Officers, the Child Labour Inspectors, the Education Officers to head the Boards Schools, and the educational and vocational instructors. Among these officers, the Child Labour Inspectors are visualised to be the key officials in the entire scheme.

Under Chapter III, Section 13 seeks to prohibit the employment of children in hazardous employments and occupations as has already been mentioned. The child labour inspectors are required to identify, during the course of their enforcement activities and functions, the hazardous occupations and employments wherein children are employed and report the matter to the Board for the purpose of prohibiting the employment of children in such occupations and employments.

More importantly, the Inspectors are required to identify the child workers employed in different sectors and occupations and keep a list of them along with the names of their employers. They are required to undertake the enumeration and registration of child workers every three months and keep the list of child workers and their employers up-to-date. In agriculture and allied occupations, the children or their parents/guardians are required to report every week the employment and nature of work they

did to the Inspectors of the area so as to enable them to keep a register of child labour employment.

It is under this Chapter that number of disincentives for employers of child workers are built in. The employers are required to issue letters of appointment, specifying the details of employment including the date of appointment, to the parents/guardians of the child workers and forward a copy of the same to the Inspectors. Secondly, the employers are prohibited from altering the terms and conditions of employment to the prejudice of the child workers after this Bill is enacted.

The Bill restricts the working hours to 30 per week and six per day. The child workers are to be employed only on five days of the week. In agriculture and allied occupations, however, the working hours are 40 per week and eight per day. The employers cannot ask the children to work over time; cannot employ them during night, i. e. between 9 p. m. and 7 a. m.; the employers in agriculture and allied occupations cannot ask the working children to stay on their premises during night; the employers in the industrial sector cannot employ them on dangerous machines and operations.

The working children are entitled to all the national and festival holidays besides two days of weekly holidays; there is also a provision for compensatory holidays.

This Bill also seeks to provide the benefit of annual leave with wages to all children who put in a continuous service of three months at the rate of one day of leave for every twelve days of work; the earned leave could be accumulated upto a maximum of 120 days; they are allowed to encash fifty per cent of the accumulated leave when it reaches the limit of 120 days. Infact the employers are required to take the initiative in providing the benefit of encashment when the accumulated leave earned by a child worker reaches the limit of 120 days. And when a child leaves the employment or when he/she reaches the age of fifteen the employers are required to pay the wages for the period of unavailed leave. The Inspectors are required to ensure that the employers maintain proper records of leave. The Child Labour Board is required to prescribe a procedure for availing leave and maintenance of registers.

The employers are also required to pay the minimum wages fixed by the Board without any deductions and reductions, and also the transport and food subsidy not less than Re. 1/ and Rs. 3/- respectively per day. They are required to arrange for periodical health check-up and provide for medical treatment including first-

aid and maintenance allowance in cases of employment injuries. No employer should indulge in cruel treatment of a child worker.

Children working for more than 30 days in a financial year are entitled to bonus equal to one month's wages of Rs. 300/- whichever is more. In agriculture and allied occupations, however, the rate of bonus is five days average wages for every 30 days of work under a single employer.

The employers not complying with these requirements are liable for prosecution.

The most important feature of this Bill is the provision of a Child Labour Development Scheme under which the Boards are required to make suitable arrangements for formal and non-formal education, vocational training, career development, nutrition and health care, recreation and welfare of the child workers. To finance these programme activities a Child Labour Development Fund is to be created by the Central Government under Chapter IV by levying an employment cess on all the employers. All the employers in the country applying for licences to hire workers or for renewal of the licences already obtained are required to pay this cess. The rate of cess varies from Rs. 100/- to Rs. 1000/- per annum depending upon the number of persons employed. The premise on which this employment cess is suggested is the 'social obligations of the industry and employers towards society in general and the weaker sections in particular.'

In addition to employment cess, the State Governments are also required to contribute to the fund to the extent of fifty per cent of the funds received by the Boards through the employment cess. The Bill also permits the Boards to receive donations and voluntary contributions from the general public, companies and other voluntary sources, and expects the Central Government to give tax relief under the Income Tax Act to such persons, companies and other voluntary sources.

Under Chapter V a Child Labour Development Scheme is detailed. According to the Scheme the Child Labour Boards are required to establish enough number of evening and week-end schools for formal and non-formal education, the vocational training schools and workshops for imparting vocational training, to undertake career development programmes for the working children who do not want to be wage labourers and to provide for health and welfare.

The Schools are required to be residential schools for the working children coming from villages so that they could spend their two days in a more meaningful manner.

The Inspectors are made responsible for the enrollment of the child workers identified by them and help the education officers in determining the educational and vocational requirements of each child worker. They are required to select carefully the trades and avocations for providing training. The vocational training for a child worker is to be determined in consultation with the parents/guardians and the child worker himself.

In addition to vocational training in Board Schools all the industrial employers are required to provide on-the-job training to all the children employed by them.

The technical education institutions, public and private sector employers, skilled artisans and craftsmen, technicians etc., and the Adult and Continuing Education Boards are to be involved by the Child Labour Board in educational and vocational training programmes, particularly in evolving the syllabi and their implementation.

In this Bill a provision is also made to select best trainees once in six months and award prizes to them so as to keep them interested in their education and training.

We found through research that the working children have a strong desire for pursuing higher education and advanced vocational training, while some others have an interest in setting their own trade or workshop or to change to a better occupation/job/employment. Therefore, the Board is required to extend necessary assistance to such children. Such of the children are required to have compulsory savings for a minimum period of two years before they reach their fifteenth year. When a child worker decides to start his/her own trade/business/workshop the Board is required to contribute double the amount of savings he/she had at the time of completing his/her fifteenth year. The Board officers are also required to help such children to prepare the project reports for getting additional financial assistance from the Banks.

Under nutrition and health care, provisions are made for providing nutritious food once a day to all the working children attending the Board schools, for a periodical health and medical check-up, a non-contributory health insurance scheme, sick leave, hospitalization, wage compensation and compensation for disabilities and fatal accidents. Any child suffering from any kind of ailments is required to avail the medical treatment in Government hospitals. But when the ailment is for more than two days he/she is entitled to sick leave and wage compensation to the extent of 75 per cent of the average wages he/she was earning. In cases of disabilities and fatal accidents arising during the course of employment, the Board is required to fix the rates of compensation on the basis of age of child worker and his/her percentage loss of earning capacity. The Board is required to pay the amount of compensation to an affected child or his parents but subsequently recover the

amount from the concerned employers in installments. This is another kind of disincentive for the employers.

This Bill further makes provision for providing common recreational facilities and periodical tours and visits to different places in India, the expenses of which are to be borne by the Board.

With a view to reducing the incidence of child labour, provisions under this Bill are made to provide for counselling and guidance services for the families of the working children, the working children themselves, and to extend help for non-working school going children living around the schools in their studies.

The child workers at present cannot be members of a trade union nor can they form a union of themselves. Hence, Chapter VI of this Bill seeks to confer on the child workers a right to organise and form a union, a right to register a union with the Child Labour Board, to negotiate with the employers for better benefits than provided under the Bill. This chapter also requires the employers to recognise the child labour unions and enter into negotiations with them in good faith. There is also a provision for settlement of disputes between the employers and child workers or their unions through med-arb by the District Child Labour officers and/or the Director of the Board. The Bill defines what is a dispute.

The Bill does not expect that the Board should terminate its relations with the child workers when they reach the age of fifteen. Instead, the Board is required to provide for after-care services to working children and take care of them till they are settled in life.

This Bill also requires the Board to provide for orientation and refresher courses for the inspectors and other officers of the Board.

Another important provision under chapter VII is that if there are any voluntary organizations engaged in developmental activities for the child workers similar to those provided under the Child Labour Development Scheme, the Board is required to extend all kinds of help to such organizations instead of duplicating the services.

Under the last chapter of the Bill provisions are made for prosecuting employers not complying with the statutory obligations. The punishment suggested is more rigorous than provided under any other labour laws—the minimum being Rs. 1,000/- and an imprisonment upto three months.

We do not claim that this Bill is drafted to a high degree of perfection. But we do hope that this presentation has created in all of you a new interest and a concern for working children. Hence, we expect all of you to extend your support to the cause of working children and strengthen the hands of our government in enacting this Bill.

**CHILD LABOUR
(EMPLOYMENT REGULATION,
EDUCATION, TRAINING AND
DEVELOPMENT) BILL, 1985**

Drafted By

Dr. B. R. Patil

Ms. Nandana Reddy

Sri Harikrishna Holla

Sri S. Srivatsa

**CHILD LABOUR (EMPLOYMENT REGULATION,
EDUCATION, TRAINING AND DEVELOPMENT) BILL, 1985**

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CHILD LABOUR (EMPLOYMENT REGULATION, EDUCATION, TRAINING AND DEVELOPMENT) BILL, 1985

STATEMENT OF OBJECTIVES AND REASON

Human society has a great responsibility towards the development of children as future citizens. But in all developing countries a large section of the children below 15 are forced to seek gainful employment to enable themselves and their families to have an adequate livelihood. Indian children have not been an exception to this global phenomenon. It is an extremely disturbing fact that India has the largest number of working children more than any other country on this planet. According to a rough estimate, presently about 100 million children below 15 are working in different sectors of the Indian economy. To add to this, their number has been increasing year after year.

Over 90 percent of the children are employed in agriculture and allied occupations in villages and semi-urban areas, while less than 10 per cent are engaged in different occupations in towns and cities. The major sectors that employ children in urban society include the domestic and house-hold services, hotels, restaurants, canteens and, other eating places, trade and commerce, automobile tinkering, fuelling stations, small scale industries, workshops and repair houses the traditional occupations like carpentry, tailoring, hair trimming and dressing, washing clothes, beedi and agarabatti manufacturing, garment manufacturing, shoe making and shining, transport, fire works, carpet weaving, handloom and powerloom sectors, packing and labelling, brick kilns, construction, rag picking, and so on. Thus, 'there is no employment where a child is not employed.'

The basic causative factor for the increasingly large number of working children in India has been the extreme and widespread poverty of the Indian masses, coupled with the lack of opportunities for gainful employment for the able bodied adult male members in the families, the inadequacy and intermittent nature of income, the low standard of living, mass illiteracy and ignorance. It is now a well recognised fact that high incidence of child labour is essentially a problem of development, for while in the developing countries the problem is very serious, in the developed countries the percentage of working children to the total child population is infinitesimally small and negligible. In developing countries like India, the families with no or meagre income are forced to send their children to the labour market as soon as they are old enough to get out of their houses, i. e, often at the age of 4 or 5 the children are sent to work. In towns and cities a good number of parents have been developing a preference for sending their children to work in different 'supposedly' lucrative occupations since they need certain skills to get gainful employment as adults. They firmly believe that their children should learn and acquire the necessary skills before they become adults.

While for a large number of families child labour is an economic compulsion, the employer finds in children the economic advantages of a cheap, productive, obedient and efficient labour force. As a matter of fact, employment is offered to a child, on repeated requests from the parents/guardian of that child. Once in employment his labour is exploited to the maximum possible extent; he is put to 10 to 15 hours of work every day. The working child is exploited physically, mentally, economically, and sometimes sexually as well. Empirical studies and observations have revealed that the working children not only become premature adults, but their physical and mental growth are stunted. In employments like zari embroidery carpet weaving, powerloom sector, fire works, match industry, etc., they are required to work under dangerous conditions that often cause physical injuries, loss of eye sight, skin diseases, respiratory problems and lung diseases. A child sent to the labour market to earn for the family often becomes a dependant on the family for the rest of his life when employed in such occupations; this is the most unkind part of child labour.

The working children are denied not only their right to education, training and better career opportunities, but also their joyful childhood which any normal child should have. Widespread use of child labour not only has created situations of acute exploitation but also has increased the social cost to the community. It is a fact that a large number of children below 15 either do not go to schools or drop out of schools at an early age to take up jobs. This has led to the underdevelopment in skills and premature exposure to hazards, exposure to hazardous conditions as far as health is concerned, and the resultant stultification of the growth of the personality of the child. It leads to a gradual erosion of the potentiality for economic output. It leads to a low level of employability which again is a factor that militates against the full utilization of manpower in industrialization of the country.

Considering these possible consequences, Article 24 and 39 of the Indian Constitution provide for banning of hazardous employment of children below 14 years of age- "NO CHILD BELOW THE AGE OF 14 YEARS SHALL BE EMPLOYED TO WORK IN ANY FACTORY, OR MINES, OR ENGAGED IN ANY OTHER HAZARDOUS EMPLOYMENT". Article 39 (e) and (f) require the State to take suitable steps to : (i) prevent the abuse of the tender age of children, and (ii) to ensure that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

The ILO Conventions on employment of children prohibit employment of children below 15 in all employments and occupations India being a founder-member of the ILO, a large number of

legislations have been enacted since 1933 to ratify the ILO conventions. These legislations prohibit employment of children below 12/14/15 in different occupations and employments. Subsequent to adopting the constitution for a free democratic republic of India, we should have reviewed these legal provisions in the light of Article 24 and 39 of the Constitution and the socio-economic problems we inherited from a colonial rule. We not only failed in this task but went on enacting many other legislations that also sought to prohibit the employment of children. As a result, the enforcement of these legislations has been totally ineffective and the number of working children has been consistently increasing during all these years. Yet, as we all know, different committees appointed by the Government of India since 1946 to study the conditions of labour, in general, and of child labour, in particular, have all recommended the strict enforcement of the laws dealing with the employment of children or the consolidation of all existing legislations into a single comprehensive one with uniform definitions and provisions.

Thus, the Committee on Child Labour appointed by the Government of India under the Chairmanship of Sri M. S. Gurupadaswamy (in 1979) has recommended, *inter alia*, "the consolidation of existing laws relating to prohibition and regulation of employment of Children into single comprehensive one. The new law should adopt uniform definition . . . and prescribe the hours of work, conditions of work, etc.,. The new law should also have flexibility of extending gradually the provisions contained therein to other occupations, such as, mechanised agriculture, horticulture, forestry, fisheries etc," (recommendation 5.5). This recommendation of the Committee while arguing for uniform provisions through consolidation of existing laws pleads for the maintenance of status quo feigning ignorance of the "harsh reality".

It is our common experience that the prohibitory measures have only sought to close some of the channels of supplementing incomes for extremely poor families who live below the poverty line. All our efforts to remove or reduce poverty so far have failed and the percentage of the population below poverty line has been steadily increasing. In this context, the ineffectiveness and redundancy of the existing prohibitory legal measures will progressively increase so long as the present Socio-economic conditions continue to remain what they are today. Child labour would continue to be an unavoidable socio-economic evil so long as we emphasize its prohibition without tackling the problems of poverty and adult unemployment.

It is only the Annual Report of the Ministry of Labour for Government of India for 1983-84 states that the Government has accepted child labour as a "harsh reality" in India, and feels that it would be neither "feasible nor opportune" to prevent children from working in the present stage of economic development.

The report says that despite the provisions of restrictive labour laws, the practice continues unabated because the exploitation of children offers financial advantages to employers and an economic compulsion to parents. The report calls for an improvement in the working conditions and facilities of education, extra nutrition and health care for children.

In fact, earlier the Gurupadaswamy Committee had also recommended for: (a) 'comprehensive educational facilities for child workers and to include education as a part of labour welfare measures to be adopted by employers. It recommended arrangements for non-formal education in areas where there is concentration of working children'; (b) 'periodical medical check-up to be linked with national health scheme', and (c) arrangements for recreational and cultural activities in areas in which there are large number of working children.'

The desirable national objective, therefore, should be the regulation of child labour in different occupations and its abolition in certain hazardous jobs on the one hand, and making provisions for formal and non-formal education, vocational training and career development, health and welfare of working children and improvement of the socio-economic conditions of the families of the working children on the other, instead of seeking to impose a complete ban on child employment. We need to be more pragmatic in this regard. This should be our immediate concern.

This BILL, therefore, seeks to provide for the regulation of employment of children below 15 in different employments and occupations while prohibiting their employment in hazardous occupations, to provide for certain negative incentives to employers of child labour, such as, the prescription of working hours and working conditions, payment of minimum wages, bonus, leave facilities, security measures against employment injuries, sickness, etc., to provide for education, vocational training and career development of working children, and to provide for all other matters connected with child labour.

PREAMBLE

An Act to provide for the regulation of employment of children, to provide for their education and vocational training career development, welfare and for matters connected therewith.

Be it enacted by the Parliament in the thirty-sixth year of the Republic of India as follows:

1. SHORT TITLE, EXTENT AND APPLICATION :

(i) This Act may be called the Child Labour (Employment, Regulation, Education, Training and development) Act, 1985,

(ii) It shall extend to the whole of India.

(iii) (a) It shall apply to all the employers for the purpose of levying and collecting an employment cess to finance the Scheme provided under this Act ;

(b) It shall apply, for the purpose of employment regulation, education, vocational training and career development of child worker, to all employments and occupations where children are employed with or without wages/income on a part-time or full-time basis.

(iv) It shall come into force immediately.

2. DEFINITIONS :-

In this Act, unless there is anything repugnant in the subject or context :

(a) "advisory board" means the National Child Labour Advisory Board constituted by the Central Government under this Act ;

(b) "average wage" means the average of the wages payable to a child worker :

(i) in the case of a monthly paid child worker in the three calendar months,

(ii) in case of a weekly paid child worker in the four complete weeks of five days each, and

(iii) in the case of a daily paid child worker, the twelve full working days,

proceeding the date on which the average wage becomes payable if the child worker had worked for three complete calendar months or four complete weeks or twelve full working days, as the case may be, and where such calculation cannot be made, the average wage shall be calculated as the average of the wages payable to the child worker during the period he actually worked.

(c) "award" means an interim or final determination of any matter pertaining to child labour by the Child Labour Tribunal constituted under this Act ; it includes the decision of the Director, Child Labour Board and the District Child Labour Officer in cases of disputes pertaining to child workers.

(d) "board" means the Child Labour Board constituted by the State Governments or a Union Territory under this Act.

(e) "board schools" means the formal and non-formal Education schools, and the vocational training schools and workshops established by the Child Labour Board.

(f) "calendar year" means the year from the first day of January ending on the last day of December.

(g) "child labourer" means a person who has not completed his/her fifteenth year of age and is working with or without wages/income on a part-time or full-time basis;

Explanation : The terms child labourer and child worker are used synonymously in this Act.

(h) "continuous service" means an uninterrupted service and includes a service interrupted on account of holidays, leave with wages, sickness and employment injuries and closure of the establishment by the employer for any reason.

Explanation : the days on which the child worker was on holidays, earned leave, sick leave, leave due to employment injuries, and the days on which the employer closed his establishment for any reasons shall be included in calculating continuous service.

(i) "day" means a period of twenty-four hours beginning at midnight;

(j) "dispute" means any difference or dispute between the employer and child worker or his/her parents/guardians or between the employer and child labour union which is connected with the age of child, hazardous nature of employment or occupation, employment and non-employment and terms of employment or with conditions of labour of any child worker;

(k) "employer" means a person who employs a child worker directly, through a contractor or on piece rate basis to do any work with or without wages/income on part-time or full-time basis; but excludes the employer covered under section 47 of this Bill.

Explanation : the term "person" includes the manager of the establishment and the legal representative of a deceased employer.

(l) "establishment" means a factory, mine, plantation, a shop and commercial establishment as defined under the Factories Act, 1948 (Act No. LXIII of 1948), the Plantation Labour Act 1951 (Act No. 69 of 1951), the mines Act 1052 (Act No. 35 of 1952), and the Shops and Commercial establishments Act (legislated by State Governments), and include

all other premises wherein a manufacturing process is carried on with or without the aid of power, where the employer is engaged in a calling, service, handicraft and handloom manufacturing, collection and disposal of materials medium and large scale agriculture, agro-based industries and occupations, animal husbandry, dairy and poultry farming, fishing, forestry, etc.,

(m) "fund" means Child Labour Development Fund created under this Act by the Central Government by levying an employment cess on all employers for financing the Child Labour Development Scheme adopted by the Child Labour Boards.

(n) "hazardous occupation" means any occupation which causes physical harm to the health and well-being of the child worker and includes occupations that retard, interfere or impede the normal mental development of the child.

(o) "inspectors" means the Child Labour Inspectors appointed by the Child Labour Board under this Act.

(p) "season" means a period of three to six months during which the agricultural operations and other manufacturing processes and operations are undertaken.

(q) "scheme" means the Child Labour Development Scheme provided under this Act and adopted by the Child Labour Board.

r) "tribunal" means the Child Labour Tribunal constituted by the State Government under this Act.

(s) "wages" means all remuneration capable of being expressed in terms of money which would be payable to a child worker in respect of his employment or of work done in such employment if the terms of the contract, express or implied, were fulfilled, but does not include :-

- i) any travelling/conveyance allowance or the value of any travelling concession ;
- ii) the value of tiffin or meals supplied or the subsidy paid toward food expenses ; and
- iii) any other amenity or service provided by the employer for the benefit of child workers.

(t) "week" means a period of seven days beginning at midnight on Saturday night or such other night as may be approved in writing for a particular area by the District Child Labour Officer.

3. NATIONAL CHILD LABOUR ADVISORY BOARD :-

(i) The Central Government shall constitute the National Child Labour Advisory Board, by a Notification in the official GAZETTE, to lay down all policy matters pertaining to child labour to guide the Child Labour Boards constituted by the State Governments in developing their programmes, to review periodically the regulation of employment of children, and to undertake all other activities connected with the employment of children ;

(ii) the Advisory Board shall consist of the following members :

- a) the Union Labour Minister as the ex-officio chairperson ;
- b) a vice-chairperson to be nominated by the Central Government ;
- c) the Chairperson of all Child Labour Boards or their nominees as the ex-officio members ;
- d) five representatives of employers in the unorganised and informal sectors to be nominated by the Central Government ;
- e) five persons representing the child workers who should have been working for workers in the unorganised and informal sectors to be nominated by the Central Government ;
- f) two persons from the field of education and vocational training to be nominated by the Central Government ;
- g) the Chairperson, Central Social Welfare Board as an ex-officio member ;
- h) the Chairperson, Indian Council of Child Welfare as an ex-officio member ;
- i) three members of Parliament of whom two shall be the members of the Lok Sabha to be nominated by the Central Government; and
- j) the Director, Child Labour Cell in the Ministry of Labour, Government of India, as the ex-officio member-Secretary.

Provided, at least one-third of the members of the Advisory Board shall be women.

(iii) the Advisory Board shall meet at least twice a year to transact its business.

4. TERM OF OFFICE OF THE MEMBERS OF THE
ADVISORY BOARD

- (i) No member of the Advisory Board, except the ex-officio

members, shall hold office for more than three years;

(ii) an outgoing member may be renominated by the Central Government for a second term of three years;

(iii) where a person is chosen as a member of the Advisory Board by virtue of the office or appointment he holds, he shall cease to be a member of the Advisory Board if he ceases to hold that office or appointment;

(iv) the Advisory Board shall function notwithstanding any Vacancy caused by any reason;

(v) nominations for the Vacancies caused before the expiry of the term of office of a member shall be only for the unexpired period.

5. CHILD LABOUR BOARD :-

The State Governments shall constitute, by a notification in the official GAZETTE, the Child Labour Boards in their respective territories for implementing the policies evolved by the Advisory Board, to plan necessary programmes for regulating the employment of children, education, vocational training, and career development of childworkers, programmes for their nutrition, health care, welfare, recreation and all other connected matters; and also for the administration of the Child Labour Development Fund.

6. CONSTITUTION OF THE BOARD :-

The Child Labour Board shall consist of the following members:-

- a) the Labour Minister of the State as the ex-officio chairperson of the Board;
- b) a Vice-chairperson to be nominated by the State Government;
- c) the president of the State Chamber of Commerce and Industries as an ex-officio member;
- d) the Chairperson, state small scale industries or small scale employers association, as an ex-officio member;
- e) two trade unionists working in unorganised and informal sectors of labour to be nominated by the State Government to represent the interests of the working children;
- f) two persons working for the welfare of child workers to be nominated by the State Government;
- g) two members of the State Legislature to be nominated by the State Government;
- h) the Chairperson, State Social Welfare Advisory Board as an ex-officio member;
- i) the Director, Health and Family Welfare in the State as an ex-officio member;

- j) a vocational educationist to be nominated by the State Government ;
- k) the Secretary, Department of Labour, as an ex-officio member ; and
- l) the Director, Child Labour Board, as the ex-officio member-secretary of the Board.

provided, at least one-third of the members of the Board shall be women.

ii) the Board shall meet at least once in three months to transact its business.

7. TERM OF OFFICE OF THE MEMBERS OF THE BOARD :-

- i) No member of the Board, except the ex-officio members, shall hold the membership of the Board for a term of more than three years ;
- ii) an outgoing member may be renominated for a second term of three years ;
- iii) where a person is chosen as a member of the Board by virtue of the office or appointment he holds, he shall cease to be a member of the Board if he ceases to hold that office or appointment ;
- iv) the Board shall function notwithstanding any vacancy on the Board caused by any reason ;
- v) the State Government shall nominate a person to fill a vacancy caused for any reason for the unexpired period of office.

8. APPOINTMENT OF OFFICERS :-

- i) The State Government shall appoint a Director, Child Labour Board, who shall be the chief executive of the Board ; he shall be subject to the general control of the Board in programme implementation and administration of the Fund ;
- ii) the Board shall appoint a Deputy Director, and enough number of assistant directors for education, vocational training, health and welfare, and for other activities and programmes who shall assist the Director in programme implementation ;
- iii) the Board may appoint other officers to assist the Director, Deputy Director and assistant directors, as it deems fit ;
- iv) the Board shall appoint Child Labour Officers for all the Districts in the State to assist the Board in implementing the programmes in the District and to supervise the activities of the Child Labour Inspectors and other officers within the district, to act as a mediator and arbitrator in disputes over different issues arising out of child employment and to undertake all other

activities connected with child labour ;

v) the Board shall appoint adequate number of Child Labour Inspectors for each TALUKA or any smaller area within a taluka ;

vi) the District Child Labour Officers, the assistant directors, the Deputy Director, and the Director of the Child Labour Board shall be additional inspectors for the purposes of this Act ;

vii) the Board shall appoint enough number of educational and vocational instructors, and educational officers for all the schools established by itself under this Act.

9. QUALIFICATIONS OF OFFICERS :-

(i) DIRECTOR : (a) he shall be an I. A. S. officer, or (b) a senior class I officer from state Administrative service with a Master's degree in one of the social sciences, preferably in social work, sociology or psychology, or (c) a person possessing a degree of a recognised university and having an experience of working for the welfare of the working children for a period of five years ;

(ii) DEPUTY and ASSISTANT DIRECTORS : shall be senior class I officer with a Master's degree in social sciences ;

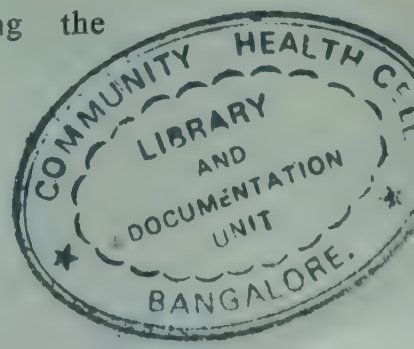
(iii) CHILD LABOUR OFFICERS : shall be class I officers with a Master's Degree in social work, sociology or psychology ;

(iv) CHILD LABOUR INSPECTORS : shall be class II officers with a Master's degree in social work, sociology or psychology ;

(v) EDUCATION OFFICERS : shall be class II officers with a Master's Degree in education or psychology, with an experience of working as the head of a vocational training institute for a period of five years.

10. POWERS AND FUNCTIONS OF THE INSPECTORS :

The Child Labour Inspectors shall : (i) identify child workers and their employers periodically within their jurisdiction and register them. (ii) ensure the payment of minimum wages fixed by the Board (iii) enforce the provisions under this Act pertaining to working conditions ; (iv) investigate the cases of exploitation of child labour and prosecute the employers indulging in child labour exploitation ; (v) investigate the cases of employment injuries arising out of occupational accidents and diseases and report the findings to the Board or an officer designated by the Board ; (vi) arrange for periodical health check-up of the working children and take follow up action ; (vii) to assist the educational and vocational instructors in determining the educational and vocational requirement of the child workers ; (viii) to ensure the attendance of child workers in the Board schools ; (ix) to ensure on-the-job training of child workers ; (x) to assist the education officers in selecting the



best trainees, and (xi) to undertake all other activities connected with child workers.

11. FUNCTIONS OF THE EDUCATION OFFICERS :-

The Education officers shall be the administrative heads of the Board Schools who shall ensure educational and vocational training for the child workers in co-operation with the Inspectors and training staff, to arrange for the welfare activities, and to undertake all other activities connected with child workers.

12 REGIONAL CHILD LABOUR TRIBUNALS :-

(i) The State Governments shall constitute, by a notification in the official GAZETTE, the Regional Child Labour Tribunals for every division within the State for granting reliefs to the child workers and prosecuting the employers acting in contravention of the provisions under this Act;

(ii) the Tribunal shall have the powers to pass interim award granting a suitable relief to the child worker immediately on filing the cases by the inspectors, a child labour union parents/guardians, next of kin, next of friend, or any citizen of India interested in the welfare of child workers;

(iii) the Tribunal may have its sittings at any place within the division for which it is constituted;

(iv) the Tribunal shall consist of one person, to act as the Presiding Officer, to be appointed by the State Government;

(v) a person shall not be qualified for the appointment as the presiding officer of a Tribunal unless:-

a) he is, or has been a district or an additional district judge;

b) he has held the office of a presiding officer of any, Tribunal/Labour Court for a period of not less than three years; or

c) he has held any judicial office in India for not less than five years.

A. EMPLOYMENT REGULATION IN INDUSTRIAL AND
NON-AGRICULTURAL OCCUPATIONS

13. PROHIBITION OF EMPLOYMENT IN CERTAIN
OCCUPATIONS :- (i) No child who has not completed his/her fifteenth
year of age shall not be employed or permitted to work in any employ-
ment specified in Schedule to this Act, and all other occupations
hazardous to the health and development of the child;

Provided, the hazardous nature of an occupation or employment
shall be determined by the Board on the basis of the recommenda-
tions of a panel of experts constituted by the Board consisting
of the District Surgeon/assistant surgeon/medical officer, an
industrial psychologist, an employer and a trade unionist or a
social worker engaged in promoting the welfare of the working
children ;

(ii) the State Government shall, on the advice of the Board,
by a notification in the official GAZETTE, add to the Schedule
any employment or occupation considered to be hazardous by
the panel of experts constituted by the Board ;

Provided, the state Government may declare any occupation
or job in any employment or part of employment as hazardous
and prohibit employment of children in that occupation or job
and shall not allow the children to work in such jobs and
occupations.

14. IDENTIFICATION AND REGISTRATION OF CHILD LABOUR :-

(i) The Inspectors consequent upon the commencement of this
Act, shall investigate, identify and list the child workers in
employment in different sectors;

(ii) the Inspectors shall undertake the investigation, identification
and listing of child workers at least once in three months within
their respective jurisdictions to update the list of child workers
and their employers and to ascertain whether children are employed
in any hazardous employments, occupations or jobs and to report
the matter to the Board.

15. ISSUE OF EMPLOYMENT LETTERS :-

(i) No child worker shall be employed or continued in employ-
ment whether on the premises of the employer or otherwise without
a letter of appointment specifying the terms and conditions of
employment, and also the date of employment;

(ii) the letters of appointment shall be issued to the parents/

guardian of the child worker and a copy forwarded to the Inspectors of the area.

16. EMPLOYMENT SECURITY :- A child worker in the employment of any person shall be deemed to be employed on a permanent basis and he/she shall derive all the benefits arising out of that employment.

17. ENTITLEMENT TO HIGHER BENEFITS :- If an employer of child workers has been providing benefits that are higher than the statutory benefits required to be provided by him and are more advantageous to the child worker, they shall continue to avail those benefits notwithstanding the statutory requirements in the matter.

18. WORKING HOURS :- No child worker shall be employed for more than 30 hours per week and six hours per day; Provided, the week shall consist of five working days.

19. REST INTERVAL :- Every child shall be given a rest interval of one hour after completing three hours of continuous work.

20. SPREAD-OVER :- (i) The periods of work of a child worker in any establishment shall be so arranged that inclusive of rest interval under Section 19 above, they shall not spread over more than eight hours on any day; Provided, in hotels, restaurants, canteens and other eating places the spread over may be upto 12 hours.

(ii) the period of work of children employed in an establishment shall not overlap or spread over more than seven hours each; each child shall be employed in only one of the relays which shall not be changed more than once in a period of thirty days.

21. WEEKLY HOLIDAYS :- Every child worker shall be given weekly holidays of forty hours.

22. NATIONAL AND FESTIVAL HOLIDAYS :- Every child worker shall be entitled to the national and festival holidays fixed by the Board as per the provisions of the National and Festivals Holidays Act, 1966.

23. COMPENSATORY HOLIDAYS :- If on any holiday a child worker is employed he/she shall be given a compensatory holiday before the expiry of one month from the date of that holiday.

24. PROHIBITION OF NIGHT EMPLOYMENT :- No child worker

shall be required or allowed to work in an establishment on any day between 9 p.m. and 7 a.m.

25. PROHIBITION OF DOUBLE EMPLOYMENT :- No child worker shall be required or allowed to work in any establishment on any day on which he has already been working or in another establishment or premises of another employer.

26. OVER-TIME WORK :- No child worker shall be required or allowed to work beyond the hours of work stipulated under Sec. 18 of this Act with or without wages/income.

27. PROHIBITION OF EMPLOYMENT ON OR NEAR DANGEROUS MACHINES :- No child worker shall be employed or allowed to work on or near dangerous machines to do independent work, to assist an adult worker, to clean and lubricate any part of the machine ;

Explanation : Dangerous machine is such machine (s) as may be prescribed by the State Government, being the machines which in its opinion are of such a dangerous character that children ought not to work at them unless they have received training in work at that machine, or is under an adequate supervision by a person who has a through knowledge and experience of the machine (self-acting machines, prime movers, shafts, every transmission machinery, electric generator, etc.).

28. PROHIBITION OF EMPLOYMENT IN DANGEROUS OPERATIONS :- Where any manufacturing process or operations carried on in an establishment exposes any child worker employed there into as serious risk of bodily injury, poisoning or disease no child worker shall be employed or allowed to work in such processes or operations.

29. EMPLOYERS' LIABILITY :- (i) All employers of child labour shall be required by the State Government to provide safe working conditions by properly fencing the dangerous machines, supply of safety devices, regular instructions to the child workers as to how to handle the machines and equipments, and arranging for close supervisions;

(ii) Whenever a child is involved in an accident the employer shall arrange forthwith for first-aid treatment followed by adequate medical treatment/hospitalization.

30. HEALTH AND MEDICAL EXAMINATION :- Every employer shall arrange medical examination of each child worker atleast once in two months and take follow-up action as recommended by the District Surgeon/assistant surgeon/ medical officer of a Government hospital.

31. ANNUAL LEAVE WITH WAGES :- (i) Every child worker who has completed a continuous service of three months shall be entitled to leave with wages during the subsequent months for a number of days calculated at the rate of one day for every twelve days of work from the date of joining the establishment;

(ii) every child worker shall be permitted to accumulate his/her leave earned under sub-section (i) above for a period not exceeding 120 days;

(iii) the Board shall prescribe a procedure for availing leave under this Section;

(iv) the wages for the leave period may be paid to the child worker before commencement of the leave period;

(v) the wages for the leave period shall be the average wages as defined under this Act;

(vi) every child worker shall have the benefit of encashment of annual leave with wages when the accumulated leave reaches the limit of 120 days; the employer shall take the initiative to pay wages for 60 days of accumulated leave and allow the child worker to have the remaining leave to his/her credit;

(vii) the employer shall pay for the period of unavailed leave when a child worker quits his/her employment or after his/her reaching the age of fifteen;

Provided, the Inspectors shall periodically ensure the crediting of leave by the employers and also the encashment of leave;

viii) all employers covered under this Act shall maintain proper leave account in respect of each child worker which shall be open for inspection and verification by the Inspectors, the child worker, his/her parent/guardian;

ix) the provisions under this Section shall not operate to the prejudice of any right to which any child worker may be entitled to under any convention, custom, terms and conditions of employment, or an award;

Provided, if such convention custom, terms of employment or an award provides for a longer annual leave with wages than provided under this Section, the quantum of leave, which the worker shall be entitled to, shall be in accordance with such convention, custom, terms of employment or award.

32. WAGES.- (i) No child worker shall be paid wages less than the wages determined by the Board;

(ii) all wage payments shall be made on or before the seventh day of the succeeding calendar month;

(iii) no deductions in the wages earned by a child worker shall be made by his/her employer for any reason.

33. **FIXATION OF MINIMUM WAGES :-** (i) The Board shall fix the minimum wages for each employment and occupation where the child workers are employed following the procedure laid down under this Minimum Wages Act, 1948 ;

(ii) Where the child workers have formed an association under this Act their wages and other conditions of employment be determined through collective negotiations which shall not be less than or equal to the wages and other conditions of employment fixed by the Board.

34. **EX-GRATIA PAYMENT :-** Every child worker who has completed one month's continuous service shall be paid an ex-gratia payment equal to one month's average wage or Rs. 300/- whichever is more.

35. **ALLOWANCES AND FACILITIES :-** (i) Every employer shall pay a conveyance allowance to each child worker employed by him, in addition to the wages, at a rate not less than Rs. 25/-per month ;

(ii) if any child worker is found suffering from any ailment he/she be granted sick leave for the period during which he/she is required to be under treatment ;

(iii) every child worker shall be entitled to get the subsidized canteen facility within the premises of the employer ;

Provided, where no canteen facility is available within the employer's premises, the employer shall pay a food allowance to each child worker at the rate of not less than Rs. 3/-per day.

36. **EMPLOYER-CHILD RELATIONS :-** (i) All employers covered under this Act shall treat the children employed by them with humanity and compassion ;

(ii) the employers shall not indulge in any kind of cruelty to the child worker(s) employed by them for any reason ;

(iii) if any employer is found or reported to have indulged in cruel treatment to the child worker(s) he shall be punishable under this Act.

37. **REGISTER OF CHILD WORKERS :-** (i) The employers of child labourers or the managers of the establishments in which children are employed shall maintain a register of child workers showing :-

- a) the name of each child worker,
- b) the name of his/her parent/guardian with address,
- c) the nature of his/her work,
- d) in which shift/relay he/she works,
- e) the wage rate being paid,

- f) leave earned and availed by each child worker,
- g) the date of health and medical examination conducted, and
- h) any other information as may be required by the Board :

(ii) the registers maintained by the employers shall be available within the premises of the establishment and produced whenever demanded by the Inspectors.

B. EMPLOYMENT REGULATIONS IN AGRICULTURE AND ALLIED OCCUPATIONS.

38. IDENTIFICATION AND REGISTRATION OF CHILD WORKERS

AND CHILD LABOUR EMPLOYERS :— (i) Every Inspector appointed for the area shall undertake enumeration of child workers employed within his jurisdiction to identify and register them and also the persons who employ child workers for at least ten days in a calendar month ;

(ii) the Inspector shall continue to enumerate the child workers within their jurisdictions once in three months ;

39. WEEKLY REPORTING OF EMPLOYMENT AND WORK :—

(i) Every child worker employed in agriculture and allied occupations shall report to the Inspector of the area his employment and the nature of his/her work during the week specifying the employer(s) ;

(ii) where a child worker fails to do so or is unable for any reason to report his/her employment and work done during the week his/her parent/guardian shall do so ;

(iii) the Inspectors shall maintain the register of child labour employment in respect of each child working in agriculture and allied occupations within their respective jurisdictions for determining the frequency of employment under different employers.

40. HOURS OF WORK – (i) No child worker shall be required or allowed to work for more than 40 hours a week subject to eight hours per day ;

(ii) no child worker shall be required to work for more than five days a week ;

Provided, all child workers shall spend their week ends, i. e. the sixth and seventh days of the week, in the Board Schools.

41. REST INTERVAL :— Every child worker shall be allowed a rest interval of one hour after completing 4 hours of work.

42. **WORKING HOURS.**— A child worker shall be employed only between 8 a.m. and 6 p.m.

43. **PROHIBITION OF NIGHT WORK.**— (i) No child worker shall be employed during night between 9 p.m. and 7 a.m.;

ii) no child worker shall be allowed or required to stay on the premises of the employer during night hours.

44. **WAGES.**— (i) NO child worker shall be paid wages less than the wages fixed and prescribed by the Board;

ii) the employers shall provide free lunch to every child worker employed by them.

45. **PAYMENT OF WAGES.**— (i) Every child worker shall be paid his/her wages by his employer once in a week;

ii) every employer shall pay the wages of a child worker without any deductions for whatsoever reason;

iii) where a child worker is working for an employer regularly over a long period of time, his/her wages may be paid once a month; in all such cases the employer shall be required to maintain records in the prescribed manner giving details of employment of child workers.

46. **EX-GRATIA PAYMENT:**— (i) All persons employing one or more child workers for a period of more than 30 days in a calendar year/season, continuously or intermittently, shall pay at the end of the year/season an ex-gratia sum at the rate of five day's wages for every 30 days of work;

ii) determination of total number of days worked shall be in the basis of weekly employment and work reports maintained by the Inspectors;

iii) in cases of disputes over the number of days worked by a child for any employer the matter shall be decided by the District Child Labour Officer acting as an arbitrator.

47. **EMPLOYER'S GENERAL LIABILITY :—** (i) No Employer shall assign to a child worker a job that is harmful to his/her health and which is likely to cause bodily injury;

(ii) no employer shall ask any child worker to work for more than eight hours a day and five days a week.

48. **EMPLOYER'S LIABILITY IN CASES OF EMPLOYMENT INJURY :—** (i) A child worker sustaining employment injuries shall be paid his/her full wages for the day on which he/she sustained the injuries;

Explanation : Employment injuries include the injuries caused during the course of his/her work;

(ii) no employer shall refuse to employ a child sustaining the employment injuries during the course of work for which he/she was employed by him;

(iii) the employer shall pay maintainance allowance in kind during the period of disability at the rate of half the average wages the child worker was earning prior to the employment injury.

Chapter IV. CHILD LABOUR DEVELOPMENT FUND

49. CHILD LABOUR DEVELOPMENT FUND :- (i) The Central Government shall create a Child Labour Development Fund for each State, by a Notification in the official GAZETTE, by levying an EMPLOYMENT CESS on all the employers including the contractors covered under the Contract Labour (Regulation and Abolition) Act, 1970, to finance the programme activities evolved and developed by the Child Labour Boards;

(ii) the employment cess, the Central Government shall levy, shall not be less than the following rates :-

<u>SIZE OF THE ESTABLISHMENT.</u>	<u>RATE OF CESS.</u>
a) Establishments employing less than ten (10) person. . . .	Rs. 100.00 P.a.
b) Establishments employing 10 to 200 persons.	Rs. 200.00 p.a.
c) Establishments employing 201 to 500 persons.	Rs. 500.00 p.a.
d) Establishments employing more than 500 persons. . . .	Rs. 1,000.00 p a.
e) All Contractors.	Rs. 1,000.00 p.a.
f) All other employers not covered under any of the above categories.	Rs. 100.00 p.a.

50. CESS COLLECTING AUTHORITY :- The Central and State Departments of Labour and other Departments issuing the licences for employment of persons shall collect the prescribed rates of employment cess at the time of issuing or renewing the licences and credit the amount to Child Labour Development Fund Account, from which the Board shall draw its finance;

Provided, the Central Government shall transfer the cess amount collected by it to the respective State Boards as soon as practical.

51. **GOVERNMENT'S CONTRIBUTION :-** The State Governments shall contribute toward the Fund a sum equal to 50 per cent of the employment cess collected by them ;

Provided, the State and Central Governments shall give block grants to the Boards to carry on their activities during the first year of their inception and till they start getting the Fund.

Provided, if during any year the Board receives inadequate funds through employment cess and State Government's share of contribution, the State and Central Governments shall sanction special grants on request from the Board (s).

52. **VOLUNTARY CONTRIBUTIONS FROM THE GENERAL PUBLIC AND COMPANIES :-** (i) The Boards shall be permitted to receive donations and voluntary contributions from the general public, companies and other voluntary sources ;

(ii) The Central Government shall require the Board of Direct Taxes to give tax relief under the Income Tax Act to the non-governmental contributors to the Fund.

53. **UTILIZATION OF FUND :-** The Fund shall be utilised to defray the expenditure on programmes of education, vocational training, career development, health and welfare of the child workers and other administrative purposes under the Scheme.

Chapter V. CHILD LABOUR DEVELOPMENT SCHEME

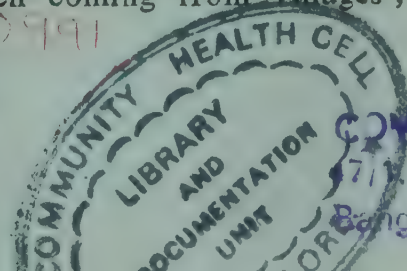
54. **CHILD LABOUR DEVELOPMENT SCHEME :-** Child Labour Development Scheme to be adopted by each Board shall provide for formal and non-formal education of child labour, vocational training, career development planning, nutrition and health care, general welfare, counselling and guidance to the families of child workers and other connected matters.

A. FORMAL AND NON-FORMAL EDUCATION

55. **EVENING AND WEEK-END SCHOOLS :-** The Board shall establish, as soon as practicable, enough number of evening and week-end schools with separate wings for formal and non-formal education, in all communities having a concentration of 50 or more child workers ;

(ii) the week-end schools in rural areas shall have the residential facilities for the children coming from villages ;

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711, First Floor, St. Marks Road,
Bangalore - 560 001.

(iii) the Board shall provide for necessary transport facilities to the child workers commuting the distance from their homes to the Board schools.

56. ENROLLMENT OF CHILD WORKERS IN BOARD SCHOOLS :- The Inspectors shall require all the child workers identified by them to enroll themselves in the evening and/or week-end schools run by the Board ;

Provided, the Inspectors shall ensure regular attendance of the child workers enrolled in the Board Schools.

57. DETERMINATION OF EDUCATIONAL REQUIREMENTS OF CHILD WORKERS:- The education officers and the instructors shall determine the educational needs of each child worker to admit him/her to the appropriate level.

58. CHILD WORKER'S LIABILITY:- Every child worker undergoing formal and/or non-formal education shall receive the benefit free of cost; he/she shall attend the school regularly and take positive interest in studies.

59. EMPLOYERS LIABILITY :- (i) No person employing one or more child workers shall employ them during the school hours;

ii) every employer shall relieve the children working for him at least one hour before the school hours and provide necessary assistance to the child workers in reaching the Board Schools.

60. PARENTS/GUARDIAN'S LIABILITY:- (i) No parent/guardian of a child worker shall assign any kind of work to his/her child/ward during the school hours;

i) every parent/guardian shall send his/her child/ward to the school and supervise his/her studies ;

iii) every parent/guardian of working children attending the Board schools shall pay periodical visits to the school to ascertain from the education officers the progress of their children/wards and take the necessary remedial action as suggested by the education officers.

61. HIGHER LEARNING/EDUCATION :- (i) The Board shall arrange for higher education - general and professional - if any bright person is interested in pursuing higher education on a full-time basis;

ii) the Board shall award merit-cum-means scholarships to the child workers pursuing higher education.

62. SPECIAL COACHING FOR NON-WORKING SCHOOL GOING CHILDREN :- The Board shall make adequate provision in the evening and week-end schools to provide for a special coaching to non-working school children of the community to create in them a better interest in their studies and education so that the incidence of child labour is reduced.

63. INVOLVEMENT OF ADULT AND CONTINUING EDUCATION BOARD :- The Board shall seek active assistance and involvement of the Adult and Continuing Education Board in the State and other similar organizations in formulating syllabii in non-formal and formal education and in implementing those syllabii in the Board Schools.

B. VOCATIONAL TRAINING

64. VOCATIONAL SCHOOLS AND WORKSHOPS :- (i) The Board shall establish enough number of vocational schools and workshops to provide vocational training to child workers in all the communities having a concentration of 100 or more child workers in a single community or a group of communities;

(ii) the vocational schools and workshops shall be located along with the evening and week-end schools and shall function in close association with them;

(iii) the vocational schools and workshops in rural areas shall have the residential facilities for the child workers;

(iv) the Board shall arrange for transportation for the child workers commuting the distance from their homes.

65. VOCATIONAL TRAINING :- (i) The Board shall provide necessary facilities for imparting training in different vocations and add new vocations at a appropriate times;

(ii) the Board shall exercise adequate care in selecting vocations for training; the vocational training programmed by the Board shall be future oriented;

(iii) the vocational schools shall also have a workshop with necessary tools, equipments, machines and raw materials to provide practical training, work experience and to impart necessary occupational skills to the child workers.

66. DETERMINATION OF VOCATIONAL ASPIRATIONS AND TRAINING NEEDS OF CHILD WORKERS :- The vocational aspirations and training needs of a child worker shall be determined

by the education officer jointly with the vocational instructors, the Inspectors, the parents/guardian, and the child worker.

67. EMPLOYERS' LIABILITY :- All industrial employers having one or more child workers shall provide on-the-job training to the child workers employed by them notwithstanding that the child is receiving vocational training in some other vocation under the Scheme.

68. PARENTS/GUARDIAN'S LIABILITY :- (i) Parents/guardians of every child worker shall require their children/wards to undergo vocational training before or after the working hours for a duration determined by the Education Officers;

(ii) every parent/guardian shall not assign any work to his/her child/ward during the school hours and shall keep himself/herself appraised of the progress of his/her child/ward from the education officers.

69. INVOLVEMENT OF TECHNICAL EDUCATION INSTITUTIONS :- The Board shall involve the technical education institutions such as the industrial training institutes, the politechnics, colleges of engineering and technology, etc., in determining the vocational needs of child workers, in framing the syllabi, selection of vocations, providing training and in all other activities connected with vocation training.

70 INVOLVEMENT OF EMPLOYERS AND CRAFTSMEN IN VOCATIONAL TRAINING :- The Board shall, wherever necessary and feasible involve the employers in the private sector or their skilled technicians and self-employed craftsmen like carpenters, in providing vocational training either within the premises of the Board Schools or of the craftsmen/employers.

71. INSTITUTION OF AWARDS AND PRIZES :- (i) The Board shall institute enough number of awards and prizes for the best trainees so as to create positive interest among the trainees in their vocational training ;

ii) the best trainee in different trades and vocations may be selected by a panel of judges, consisting of the Education officer, District Child Labour Officer, one vocational instructor, a local employer, and the Principal of a local technical educational institute twice a year;

iii) the awards and prizes may be in cash or in the form of tools and equipments relevant to the trade/vocation in which the trainee-awardee has been receiving training.

72. MARKETING OF PRODUCTS MANUFACTURED IN THE WORKSHOPS :- (i) All the products manufactured by the trainees and meeting market requirements (precision and quality) shall be marketed through an exhibition-cum-sale at any place within the district;

ii) the proceeds of such sale shall go to the respective schools.

iii) this amount shall be utilised by the school to give prizes and awards to the best trainees.

C. CAREER PLANNING AND DEVELOPMENT

73. DETERMINATION OF CAREER GOALS :- (i) Every child worker receiving formal/non-formal education and vocational training shall be helped by the Education Officer, the vocational instructors, and the Inspectors to identify his/her career interests and goals as soon as practical ;

(ii) before determining the career goals each child should undergo vocational training of his/her choice for a minimum period of one year.

74. ADVANCED VOCATIONAL TRAINING :- (i) The Board shall make necessary arrangements to help a child worker to receive advanced vocational training toward the achievement of his/her career goals;

(ii) the Board may assist such child workers in getting admission to technical education institutes and shall award scholarships and supply books and equipments from the second year of his training till then is satisfactory.

75. DEVELOPMENT OF ENTREPRENEURIAL SKILLS AND CAREER :- (i) If a child worker plans to have his/her own trade, business or set up a workshop after reaching majority, he/she shall be helped by the Board to develop the entrepreneurial skills through education and training;

(ii) such child workers shall be required to have compulsory savings in a nationalised bank;

(iii) when the child determines to start his/her own trade, business or workshop, the Board shall grant him/her a sum of money double the amount of his/her savings provided he had savings at least for two years before reaching the age of fifteen ;

(iv) the Board shall recommend his/her case to a bank for additional financial assistance in setting up his/her own trade, business or workshop;

(v) the District Child Labour Officer and the Inspectors shall assist such child workers in preparing the project reports and in getting necessary infrastructural facilities from the governmental agencies.

D. NUTRITION AND HEALTH CARE

76. NUTRITION :- (i) Every child worker attending the evening and week-end schools or vocational schools shall be provided nutritious tiffin/meals during the school hours;

(ii) the Board shall make necessary arrangements for providing tiffin/meals in the Schools;

(iii) no child worker or his/her parent/guardian shall contribute anything towards the expenses on nutrition programme.

77. HEALTH CARE :- The Board shall arrange for a general health check-up for every child worker attending the Board schools at least once in every two months;

Provided, where the employers also arrange for a general health check-up the Board shall arrange its programme at a time when the employer's programme is not conducted, necessarily keeping a gap of one month between two programmes.

78. MEDICAL TREATMENT AND HOSPITALIZATION :-

(i) A child worker suffering from any ailment as revealed through the general health check-up or otherwise shall be provided with necessary medical treatment including hospitalization at the cost of the Board ;

(ii) the required medical treatment and hospitalization facilities shall be provided by the State Government by making additional arrangements in the nearest dispensaries and hospitals.

79. HEALTH INSURANCE :- The Board shall introduce a non-contributory health insurance scheme to provide for medical care and treatment as well as for paying compensation in case of employment injuries and occupational diseases.

80. WAGE COMPENSATION :- (i) A child worker under treatment in a Government hospital/dispensary for more than two days shall be paid a cash compensation by the Board at the rate of seventyfive per cent of the average wages he/she was earning ;

(ii) the Board shall recover the amount of compensation paid to a child worker if it is established that the child worker suffered an occupational disease incidental to the occupation of the child worker from his/her employer in installments.

81. COMPENSATION IN CASES OF EMPLOYMENT INJURIES :-

(i) the child workers suffering partial/total, temporary/permanent disabilities shall be entitled to receive compensation from the Board ;

(ii) the Board shall fix the rates of compensation for disabilities and fatal accidents on the basis of the age of the child worker and the percentage loss of the earning capacity of the child ;

(iii) the Board shall recover from the employers of the child workers the amount of compensation paid to the child worker or his/her parents/guardian in installments.

E. GENERAL WELFARE

82. FAMILY COUNSELLING AND GUIDANCE :- Family counselling and guidance service shall be made available by the Board as a part of the educational and vocational training programmes to prevent and reduce the incidence of child labour, to help the families to take up part-time or full-time income generating employment and proper development of children.

83. EMPLOYMENT COUNSELLING AND GUIDANCE SERVICE:-

The Board shall introduce employment counselling and guidance service for the benefit of working children in tackling their employment problems, problems with their employers and fellow workers and family members, on proper utilization of his/her earnings, etc.

84. RECREATION :- (i) The Board shall provide for common recreational facilities for the benefit of child workers attending the Board schools ;

(ii) every Board school shall arrange tours and visits to different parts of the country atleast once a year for a period not exceeding ten days at a time free of cost.

85. IDENTIFICATION AND DEVELOPMENT OF FACULTIES :-

The Education Officers, instructors and Inspectors shall endeavour to identify the child workers having special faculties in fine arts, music, singing, dramatics, sports and games and other creative faculties and help them to develop those faculties by creating conducive environment and providing necessary facilities.

Chapter VI CHILD LABOUR UNIONS

86. RIGHT TO UNIONIZATION:- (i) The Central Government shall confer a right on child workers to unionize themselves to improve their working and living conditions in addition to the Boards programmes;

(ii) the employers shall recognise the right of the child workers to form unions and also the child labour unions when formed and registered.

87. REGISTRATION OF UNIONS:- Any ten (10) or more; child workers in any establishment(s) or employed by any number of employers may come together and form a union.

88. REGISTRAR OF CHILD LABOUR UNIONS:- (i) The Director, Child Labour Board shall be the Registrar of the child labour unions ;

(ii) the Registrar shall register a union of child workers when applied for and issue a Certificate of Registration ;

(iii) the Registrar shall prescribe a procedure for the registration of a child labour union, the number of office bearers, the manner of fund raising for the union and purposes for which the union fund shall be utilised, the election of office-bearers, and all other matters connected with the union.

89. AFFILIATION OF CHILD LABOUR UNIONS:- (i) No child labour union shall be affiliated to any trade union organization registered under the Trade Unions Act, 1926 nor to any political party.

(ii) a child labour union seeking affiliation with a trade union organization or political party shall be disqualified to be a union under this Act;

(iii) the Registrar of child labour unions shall, on the basis of factual information, cancel the registration of a child labour union seeking affiliation.

90. RIGHT TO NEGOTIATION:- (i) A child labour union shall have the right to negotiation with the concerned employer or employers on matters of wages, working conditions, and welfare of the child workers, etc ;

(ii) all employers of child workers shall enter into negotiations with the child labour unions in good faith and shall endeavour to reach amicable bipartite agreements ;

(iii) the agreements shall be signed in the presence of the District Child Labour Officer and registered with the Board.

91. SETTLEMENT OF DISPUTES :- All disputes between a child labour union and concerned employers shall be mediated by the Director, or the District Child Labour Officers, failing which they shall act as arbitrators and give their award which shall be binding and final.

CHAPTER VII SUPPLEMENTAL

92. EDUCATION ON EMPLOYMENT RIGHTS:- The Inspectors and other authorities under this Act shall endeavour to educate the child workers on their employment rights.

93. INVOLVEMENT OF PUBLIC SECTOR UNDERTAKINGS :-

The Board shall endeavour to persuade the public sector undertakings to provide training facilities for child workers notwithstanding the provisions under the Apprentices Act, 1961:

94. INVOLVEMENT OF VOLUNTARY ORGANIZATIONS .-

(i) The Board shall extend financial and otherwise assistance to registered voluntary organizations interested in promoting non-formal education, vocational training, career development, and welfare of the working children ;

(ii) where a voluntary organization is already running an institution (s) on the lines of the scheme delineated under this Act, the Board shall not duplicate the educational and training programmes, but provide financial and otherwise assistance to such voluntary organizations.

95. AFTER-CARE SERVICES .- (i) The Board shall continue to take care of the working children even after they attain the age of fifteen ;

(ii) the Board officers shall help them in their employment relations, in preparing project reports, in getting financial assistance from the banks and other infrastructural facilities from the governmental agencies, etc., if the child workers want to be self-employed.

96. ORIENTATION AND REORIENTATION TRAINING PROGRAMMES FOR THE AUTHORITIES UNDER THE ACT :-

The Board shall arrange for orientation and reorientation courses for the Inspectors and other officers appointed by the Board at least once a year with the assistance of management education institutions.

CHAPTER VIII PENALTIES AND PROCEDURES

97. GENERAL PENALTY FOR OFFENCES .- (i) All child labour employers contravening any of the provisions under this Act, stipulating their obligations shall be liable for prosecution and penalty if found guilty of the charges filed by the Inspectors parents/guardians, next of kin, next of friend, a child labour union, or any citizen of India with the Tribunal ;

(ii) the penalty for any offence under this Act shall not be less than one thousand rupees and or imprisonment for htree months.

98. ENHANCED PENALTY FOR SECOND AND SUBSEQUENT OFFENCES :- (i) If any employer commits a second offence under this Act, he shall be liable to a penalty of five thousand rupees or more and or imprisonment upto six months;

(ii) for all subsequent offences under this Act, the offender-employer shall be awarded a punishment of imprisonment of not less than one year.

99. PRESUMPTION AS TO EMPLOYMENT OF CHILDREN :-

If a child who has not completed his fifteenth year of age is found in an establishment at any time. except during intervals for meals or rest, when work is going on or the machinery is in motion, he shall, until the contrary is proved, be deemed for the purpose of this Act to have been employed in that establishment.

100. ONUS TO AGE :- In cases of disputes on the age of the child worker between the employer and the child/his parent/guardian or Inspectors, the Board shall be final authority to decide the issue on the basis of documentary and medical evidences.

101. COGNIZANCE OF OFFENCES :- (i) All complaints and charges of contravention of the provisions under this Act shall be dealt with only the Tribunal constituted under this Act ;

(ii) the Tribunal shall take cognizance of offences only if the complaints and/or charges are filed by the Inspectors parents/guardians of the child worker, next of kin, next of friend, a registered child labour union, or any citizen of India interested in the cause of child labour.

102. LIMITATIONS OF PROSECUTIONS :- No limitations for taking cognizance of the offences punishable under this Act.

103. APPEALS :- All appeals against the award of the Tribunal shall lie with the High Court ;

Provided, the High Court has power to condone the delay in filing the appeal on an application explaining the delay.

104. RETURNS :- (i) the Board may require the employers of child labour or their managers to submit returns, occasional or periodical, as may in its opinion be required for the purpose of this Act ;

(ii) the Board shall build up a data bank on child labour ;

(iii) the Inspectors shall ensure prompt submission of returns by the employers and supply all other necessary data to the Board in creating a data bank on child labour.

105. GENERAL POWERS TO MAKE RULES :- The State Government may make rules providing for any matter which, under any of the provisions of this Act may be considered expedient in order to give effect to the purposes of this Act.

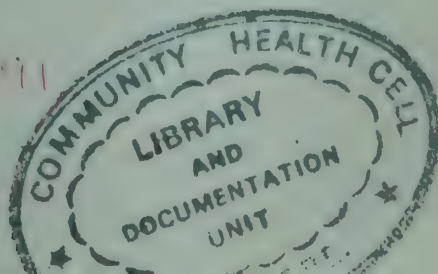
106. POWER OF CENTRE TO GIVE DIRECTIONS :- The Central Government may give directions to a State Government as to carrying into execution of the provisions of this Act.

107. PROTECTION TO PERSONS ACTING UNDER THIS ACT :-

No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act.

108. AN ACT TO OVER-RIDE OTHER LEGISLATIONS ON CHILD LABOUR :- The provisions made under this Act shall have effect notwithstanding the legal provisions made under the following legislations :-

- i) Children (Pledging of Labour) Act, 1933.
- ii) Employment of Children Act, 1938.
- iii) Employment of Children (Railway) Rules, 1955.
- iv) Employment of Children (Major Ports) Rules, 1950.
- v) Shops and Commercial Establishments Act.
- vi) Apprentices Act, 1961.
- vii) The Factories Act, 1948.
- viii) The Plantation Labour Act, 1951.
- ix) The Mines Act, 1952.
- x) The Trade Unions Act, 1926.
- xi) The Workmen's Compensation Act, 1923.
- xii) The Minimum Wages Act, 1948.
- xiii) The Merchant Shipping Act, 1948.
- xiv) The Motor Transport Workers' Act, 1961.
- xv) The Atomic Energy Act, 1962.



SCHEDULE

The Central Government shall prohibit employment of children below fifteen years of age in the following occupations with immediate effect :

1. Fire works and manufacture of explosives.
2. Match industry.
3. Heavy and fine chemicals.
4. LPG Cylinder filling.
5. Coal Mining
6. Blasting of mines in quarries.
7. Loading and unloading heavy materials.
8. On ships, ports and docyards.
9. Atomic energy stations and thermal power station.
10. Generation, transmission and distribution of Electricity.
11. Boiler House.
12. Blow rooms in cotton mills/pressing factory.
13. Employment on dangerous machines and operations.
14. Handling of pesticides, mechanised agriculture, tilling with heavy implements.
15. Employment in deep forests for any purpose.
16. Other employments that may be added by the State Governments from time to time.



THE AUTHORS OF THE BILL.

Dr. B. R. PATIL (1941) is presently an Assistant Professor of Industrial Relations and Personnel Management in the Indian Institute of Management, Bangalore. He secured his Master's Degree in Social Work in 1965 from the Karnatak University, Dharwad and Ph. D Degree in Social Sciences from the Tata Institute of Social Sciences, Bombay in 1974. Before joining the Indian Institute of Management (in 1982) Dr. Patil was working as the Professor of Social Work in the PSG College of Arts & Science at Coimbatore and in the Post-Graduate Department of Social Work, Karnatak University.

Dr. Patil has twenty years of teaching and research experience to his credit. He has published two books and twenty five research papers in national journals in the area of industrial relations. He has been taking active interest in the problems of unorganised and informal labour. Since the last two years he has been actively involved in the issues related to child labour.

Dr. Patil has been associated with a number of voluntary social welfare organizations and has been member of a few professional associations.

Ms. NANDANA REDDY is presently the General Secretary of the Bangalore Labour Union, Bangalore. She holds B. A (Hons) Degree of the Bangalore University. Since 1975 she has been organising the workers in the informal and unorganised sectors of labour such as porters, transport, the self-employed women hawkers and vendors, and more importantly the workers in the small scale industries in and around Bangalore.

Ms. Nandana has been associated with a good number of trade unions in Bangalore in different capacities and is the only woman labour leader in Bangalore.

Ms. Nandana has been a member of the Editorial Board of 'The Other Side'. She is also a free lance journalist. She is also a member of the Karnataka Legal Aid Board and the Vice-Chairperson of the PUCL, Bangalore Unit.

Her concern for working child stems from her work among the unorganised sectors of labour, and first hand study and observation of the conditions of child labour for the past ten years.

Sri HARIKRISHNA HOLLA, is presently an Advocate in Bangalore specialising in labour cases. He started his career as an official in the Regional Provident Fund Office at Bangalore where he was actively involved in the union activities leading to his dismissal. Subsequently he acquired a Law Degree and set up his practice. He is an active member of the PUCL Bangalore Unit.

Sri S. SREEVATSA a practicing advocate in the Karnataka High Court has a bachelor's degree in Science and an LLB degree. He started his career ten years ago with King and Partridge. He has specialised in Civil, Company and Excise Law. He has written a book on the comparative study of the Anti Trust Legislations and the restrictive trade practices law in the country.

Sri Sreevatsa has been associated with voluntary organisations such as the Somanahalli Leprosy Colony, National Association of the Blind, Mother Thereasa's Shishu Bhavan, Home for the Aged through the Lion's Club and Round Table.

